

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

STELLA ANNA OPRA,

Debtor.

Case No. 05-72663

Chapter 7

Judge Thomas J. Tucker

**ORDER REQUIRING DEBTOR'S FORMER ATTORNEY AND HIS FIRM
TO APPEAR AND SHOW CAUSE WHY THEY HAVE NOT VIOLATED
FED.R.BANKR.P. 9011(b)**

The Debtor in this case filed her voluntary Chapter 7 bankruptcy petition on September 26, 2005. Her petition was signed by attorney Ronald R. Dixon of the firm Ronald R. Dixon, PLLC, who continued to represent the Debtor in this bankruptcy case until at least June 15, 2006.¹ On June 15, 2006, Debtor filed amended Schedules B and C, through her new attorney, Kevin Carr (Docket #36). The Amended Schedule B changed the Debtor's disclosure of "[o]ther contingent and unliquidated claims of every nature, . . ." from the original answer "None" to the following: "Lawsuit Proceeds: S. Opra v Michael Gregory, et al.," and valued that asset at \$100,000.00. The amended Schedule C amended Debtor's claimed exemptions to add exemptions for this newly-scheduled asset, under 11 U.S.C. §§ 522(d)(5), 522(d)(11)(D), and 522(d)(11)(E), totaling \$100,000.00.

The Trustee timely objected to Debtor's amended exemptions (Docket #39), in part based on the Debtor's original failure to disclose the \$100,000.00 "Lawsuit Proceeds" or any claim relating to that asset. The Court held a hearing on July 26, 2006, followed by an evidentiary

¹ On July 10, 2006 (Docket #44) a notice of substitution of counsel was filed, substituting attorney Kevin F. Carr for attorney Dixon as counsel for the Debtor. Earlier, however, attorney Carr filed amended Schedules B and C on behalf of the Debtor, on June 15, 2006 (Docket #36).

hearing on August 14, 2006. The Court took that matter under advisement, and scheduled a bench opinion for August 25, 2006.

Based on the present record, including the testimony and exhibits received at the August 14, 2006 evidentiary hearing, the Court notes that the following conduct by attorney Dixon and his firm appears to have violated Fed.R.Bankr. P. 9011(b).² On September 26, 2005, attorney Dixon and his firm presented to the Court, by filing, Debtor's original Schedule B (Docket #1). That Schedule B stated that Debtor had no claims of the type described in item #20, *i.e.*, "[o]ther contingent and unliquidated claims of every nature. . ." Debtor's schedules did not disclose the Debtor's claim that was later disclosed as "Lawsuit Proceeds" in the Debtor's amended Schedule B filed on June 15, 2006.

This conduct appears to have violated Fed.R.Bankr.P. 9011(b), which states, in pertinent part, the following:

By presenting to the court (whether **by** signing, **filing**, submitting, or later advocating) a petition, pleading, written motion, **or other paper, an attorney**, or unrepresented party **is certifying** that to the best of the person's knowledge, information, and belief, **formed after an inquiry reasonable under the circumstances**, —

...

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; [and]

(3) the allegations and other factual contentions have evidentiary support, or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery[.]

Fed.R.Bankr.P. 9011(b) (emphasis added).

For these reasons,

² This Order is issued under Fed.R.Bankr.P. 9011(c)(1)(B), as well as 11 U.S.C. § 105(a).

IT IS ORDERED that attorney Ronald R. Dixon and his firm, Ronald R. Dixon, PLLC, must appear and show cause why they have not violated Fed.R.Bankr.P. 9011(b), and why they should not be sanctioned for doing so. The show-cause hearing will be held on **Wednesday, September 13, 2006 at 2:00 p.m.** in Courtroom 1925, at 211 W. Fort Street, Detroit, Michigan.

IT IS FURTHER ORDERED that attorney Ronald R. Dixon and his firm, Ronald R. Dixon, PLLC, must file a written response to this show-cause order no later than September 8, 2006.

Date: August 25, 2006

/s/ Thomas J. Tucker

Thomas J. Tucker

United States Bankruptcy Judge